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Remarks

Claims 1-28 are pending in the application.

Claim 28 is objected to.

Claims 1-9, 12-22 and 25-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,813,250 B1 to Fine et al. (hereinafter "Fine").

Claims 10, 11, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fine in view of U.S. Patent Application Publication 2005/0080912 A1 to Finn (hereinafter "Finn"), and further in view of ANSI/IEEE Std. 802.1D, 1998 Edition (hereinafter "ANSI").

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having

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been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, she is respectfully requested to so indicate.

#### **Objection to Claim 28**

Claim 28 is objected to. The Examiner states that "the apparatus of claim 23" should read "the apparatus of claim 28." The Applicant believes the Examiner meant to indicate that claim 28 should depend from claim 27. Claim 28 has been amended to correct this typographical error.

#### **Rejection Under 35 U.S.C. 102**

Claims 1-9, 12-22, and 25-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Fine. The rejection is traversed.

Anticipation requires the presence, in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. The Fine reference fails to disclose each and every element of the claimed invention, as arranged in independent claim 1, and there are multiple core dissimilarities between embodiments of the inventions of Fine and the applicant which make it an invalid reference to form the basis for a 35 U.S.C. 102 rejection.

Fine does not teach or suggest the claimed "method of upgrading software in a first bridge operating in a first state in a network containing a plurality of bridges, the first bridge and one or more of the second bridges forming part of a VLAN." Fine teaches "a shared spanning tree protocol for defining a plurality of loop-free paths within a computer network" (Fine col. 1, lines 9-11, emphasis added).

The office action asserts the claim element of "sending notification to one or more second bridges that the first bridge is scheduled for updating thereby disturbing the first

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state of operation" is taught by Fine. This is not correct. Specifically, Fine states that "devices may learn of any re-configuration of the network...including...changing the parameters of an existing VLAN" (col. 7, lines 11-15). By "reconfigurations," Fine does not mean performing a software update. Rather Fine is referring to devices being aware of which *VLAN configuration protocol* is being implemented in the network, "such as the VLAN Trunk Protocol...or the GARP VLAN Registration Protocol (GVRP)" (col. 7, lines 4-6), and able to adapt to any said protocol changes. The office action also asserts that being aware of VLAN configuration protocols transitions into the claimed "suspending VLAN registration information," and is analogous to the "disassociated" and/or "wait." states taught by Fine. This is incorrect.

The "disassociated" and "wait" states described in Fine are states that are implemented in response to certain events indicating whether or not a redundant link or "loop" is occurring. Those events (Events E1-E4) are listed in Fig. 4B, and clearly do not include a software update. Furthermore, by entering a "disassociated" or "wait" state, VLAN registration information does not get unilaterally suspended on the effected switch. Instead only messages "tagged" with the particular event designation(s) (E1-E4 of Fig. 4B) indicating a "disassociated," or "wait" state is required, are precluded from being forwarded (col. 18, lines 31 and 62). Hence, Fine does not teach the claimed "suspending" operation of the switch.

Since the methods of Fine are not responsive to software updates, and do not teach unilaterally "suspending VLAN registration information" for any reason, Fine does not anticipate independent claim 1, and is patentable under 35 U.S.C. 102. Independent claims 14 and 27 recites relevant limitations similar to those recited in independent claim 1 and, as such, and at least for the same reasons as discussed above, these independent claims also are not anticipated by Fine and are patentable under 35 U.S.C. 102.

Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Fine.

Therefore, the rejection should be withdrawn.

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**Rejection Under 35 U.S.C. 103(a)**

Claims 10, 11, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fine in view of Finn and further in view of ANSI. The rejection is traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 102 given Fine. Since the rejection under 35 U.S.C. 102 given Fine has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that the additional references supply that which is missing from Fine to render the independent claims anticipated, these grounds of rejection cannot be maintained.

Therefore, the rejection should be withdrawn.

**Secondary References**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

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Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 8/20/07

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